

REMARKS

Further to the undersigned's telephone message left for the Examiner on April 2, 2004, Applicants note that although there has been no change in the pending claims since the amendment filed March 3, 1999, there appears to be a misunderstanding as to the text of the pending claims. Thus, to clarify the wording of the presently pending claims, Applicants submit herewith a listing of the claims. The claims have not been amended, and thus no new matter has been added.

Claims 20-29, 38, 39, 49-58, and 60-73 are pending.

Rejection of Claims 20-29, 38, 39, 49-58, and 60-73 Under 35 U.S.C. § 112

Claims 20-29, 38, 39, 49-58, and 60-73 are rejected under 35 U.S.C. § 112 as allegedly not enabling a person of skill in the art to make the invention commensurate in scope with the claims. More specifically, the Examiner states,

The specification discloses an enabled utility for the IL-1R AcM polypeptide of SEQ ID NO:2. However, claims 20(f)-20(n) and dependent claims encompass altering as much as 5% of the polypeptide encoded by SEQ ID NO:1...Due to the large quantity of experimentation required to determine how to use all variants of SEQ ID NO:1...undue experimentation would be required of the skilled artisan to make and use the claimed invention in its full scope.

Paper No. 20031220, Page 4, line 1 to line 18.

Applicants disagree and traverse. In particular, the only basis given by the Examiner for the instant rejection is that the claims allegedly "encompass altering as much as 5% of the polypeptide encoded by SEQ ID NO:1." However, no such "percent identity" or "variant" limitations are present in the pending claims. Applicants note that the amendment filed March 3, 1999 amended claim 20 to remove subparts (f) to (m), and amended claim 49 to remove subpart (f). See pages 2-5 of the response filed March 3, 1999. Furthermore, Applicants respectfully point out that the Examiner acknowledged the amendments in the Office Action mailed October 17, 2002. See Paper No. 20, page 2, line 13 to page 3, line 3.

Thus, as the listing of claims makes clear, the language objected to by the Examiner is not present in the pending claims, making the instant rejection moot.

Accordingly, Applicants respectfully request that the rejection of claims 20-29, 38, 39, 49-58, and 60-73 under 35 U.S.C. § 112 be reconsidered and withdrawn.

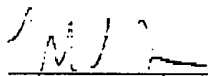
CONCLUSION

In view of the foregoing, Applicants believe that this application is now in condition for allowance, and an early notice to that effect is urged. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicants would expedite the issuance of this application.

If there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425; if a fee is required for an extension of time under 37 C.F.R. § 1.136, such an extension is requested and the appropriate fee should also be charged to our Deposit Account.

Respectfully submitted,

Dated: April 5, 2004



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